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Supreme Court of the United States

OCTOBER TERM, 1958

No. 525

ARNOLD WILLIAM LEIFER,
GEORGE FREDERICK CARNES
and JOHN HENRY McFARLAND, Petitioners

v.

UNITED STATES OF AMERICA

Supplemental Memorandum Supporting Joint Petition for Writ of Certiorari

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Supreme Court of the United States

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MAY IT PLEASE THE COURT:

At pages 20-21 of the joint petition it is argued that there is a conflict between the decisions below and the decisions cited at those pages in the joint petition on whether there is no basis in fact for the denial of the conscientious objector classification to the petitioners. The purpose of this memorandum is to call to the attention of the Court a

new decision that has been reported after the petition for writ was filed in these cases.—See *Batterton* v. *United States*, 260 F. 2d 233, 236-237 (8th Cir. 1958).

It is submitted that in each of these cases the petitioner made a prima facie case for classification as a conscientious objector, as was held in the case just cited. There is no contradictory evidence in the record of each case to justify the denial of the conscientious objector status by the appeal board. The holdings of the court below are diametrically opposed to and in conflict with the following language in *Batterton* v. *United States*, 260 F. 2d 233, 237 (8th Cir. 1958), where it is said: "It seems quite evident that mere disbelief is not enough, and that there must be some affirmative evidence to support the rejection of the claimed exemption, or something in the record which substantially blurs the picture painted by the registrant and casts doubt on his sincerity or the genuineness of his claim."

The conflict of decision between the court below and the Court of Appeals for the Eighth Circuit in *Batterton* v. *United States*, 260 F. 2d 233, is ground for the granting of the writ in these cases.

Respectfully submitted,

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January, 1959.